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****E-filed 11/17/05****

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Attorneys for Defendant
VENTANA MEDICAL SYSTEMS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BIOGENEX LABORATORIES, INC.,
Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,
Defendant.

CASE NO.: C03-03916-JF

**STIPULATION AND [PROPOSED]
ORDER TO MODIFY SCHEDULE**

BIOGENEX LABORATORIES, INC.,
Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,
Defendant.

CASE NO.: C05-0860-JF

1 WHEREAS, defendant's motion for summary judgment of noninfringement, Docket
2 No. 27, is currently pending in Case No. C05-0860-JF, and the Court is scheduled to hear
3 argument on the motion on January 27, 2006;

4 WHEREAS, resolution of the pending motion for summary judgment has the potential to
5 narrow, obviate, or otherwise inform claim construction matters with respect to the asserted
6 '598 patent in this litigation;

7 IT IS HEREBY STIPULATED, subject to the approval of the Court:

8 1. The Patent Local Rules scheduling requirements are hereby suspended, effective
9 immediately, until after the Court rules on defendant's pending motion for summary judgment of
10 noninfringement, presently noticed for hearing on January 27, 2006.

11 2. A new scheduling order will be established following disposition of the foregoing
12 motion, with new dates for subsequent Patent Local Rules disclosures, the tutorial, and the claim
13 construction hearing. The current tutorial and claim construction hearing dates of March 31,
14 2006 and April 7, 2006 are hereby vacated.

15 3. A Case Management Conference is scheduled for March 3, 2006, at 10:30 a.m.
16 The parties shall submit a Joint Case Management Statement one week prior to the Case
17 Management Conference. If, at that time, defendant's motion for summary judgment of
18 noninfringement is still pending, the parties are directed to contact the clerk to discuss whether
19 the Case Management Conference should be rescheduled.

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1 4. Discovery in this matter relating to the '598 patent shall be stayed, pending
2 resolution of the foregoing motion, except as may be directly relevant to the foregoing motion.
3 If defendant's motion for summary judgment of noninfringement is denied, this stay of discovery
4 shall be automatically lifted one week after the date of the Court's order on defendant's motion.

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6 Dated: November 15, 2005

STRADLING YOCCA CARLSON & RAUTH
Professional Corporation

7
8
9 By: 

Paul L. Gale

10 Attorneys for Plaintiff
11 BIOGENEX LABORATORIES, INC.

12 Dated: November 15, 2005

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

13
14 By: 

Roger J. Chin

15 Attorneys for Defendant
16 VENTANA MEDICAL SYSTEMS, INC.

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18 **ORDER**

19 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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22 Dated: 11/17/05

/s/electronic signature authorized

23 HON. JEREMY FOGEL
24 UNITED STATES DISTRICT JUDGE
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